

Message Text

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TAGS: EAIR, GW

SUBJECT: CIVAIR : US-FRG CIVIL AVIATION NEGOTIATIONS :
US POSITION

1. THE FOLLOWING IS THE US-PROPOSED RATE ARTICLE, TO BE
TRANSMITTED TO FRG AUTHORITIES, ALONG WITH US POSITION
PAPER (SEPTEL). PLS EMPHASIZE THAT BOTH DOCUMENTS ARE
DRAFTS AND NOT NECESSARILY WRITTEN WITH ATTENTION TO ALL
DETAILS.

-- "ARTICLE 11 : FARES, RATES AND PRICES. (A) THE CON-
TRACTING PARTIES DESIRE TO FACILITATE THE EXPANSION OF
INTERNATIONAL AIR TRANSPORTATION OPPORTUNITIES OVER THE
ROUTES SPECIFIED IN THE ROUTE SCHEDULE ATTACHED TO THIS
AGREEMENT, AS WELL AS IN CHARTER AIR TRANSPORTATION. THIS
OBJECTIVE CAN BEST BE ACHIEVED BY MAKING IT POSSIBLE FOR
AIRLINES TO OFFER THE TRAVELING AND SHIPPING PUBLIC A
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VARIETY OF SERVICE OPTIONS AT THE LOWEST FARES, RATES OR
PRICES THAT ARE NOT PREDATORY OR DISCRIMINATORY. IN ORDER
TO GIVE WEIGHT TO THIS OBJECTIVE, EACH CONTRACTING PARTY
SHALL ENCOURAGE INDIVIDUAL AIRLINES TO DEVELOP AND IMPLEMENT
COMPETITIVE FARES, RATES AND PRICES. ACCORDINGLY, THE
CONTRACTING PARTIES AGREE THAT FARES, RATES AND PRICES SHOULD
BE SET BY EACH DESIGNATED AIRLINE BASED PRIMARILY ON COMMER-

CIAL CONSIDERATIONS IN THE MARKETPLACE AND THAT GOVERNMENTAL INTERVENTION SHOULD BE LIMITED TO PREVENTION OF PREDATORY OR DISCRIMINATORY PRACTICES, PROTECTION OF CONSUMERS FROM FARES OR RATES WHICH ARE UNDULY HIGH DUE TO THE ABUSE OF A DOMINANT POSITION, OR PROTECTION OF AIRLINES FROM PRICES THAT ARE ARTIFICIALLY LOW BECAUSE OF DIRECT OR INDIRECT GOVERNMENTAL SUBSIDY OR SUPPORT.

--"(B) EACH CONTRACTING PARTY MAY REQUIRE THE FILING WITH ITS AERONAUTICAL AUTHORITIES OF FARES AND RATES AND OF WHOLE-SALE PRICES TO BE CHARGED BY DESIGNATED AIRLINES OF THE OTHER CONTRACTING PARTY. IF SUCH TARIFFS ARE REQUIRED TO BE FILED BY EITHER OR BOTH CONTRACTING PARTIES, SUCH FILING SHALL BE REQUIRED NO MORE THAN FORTY-FIVE (45) DAYS BEFORE THE PROPOSED DATE OF EFFECTIVENESS IN THE CASE OF PASSENGER TARIFFS, AND NO MORE THAN SIXTY (60) DAYS BEFORE THE PROPOSED DATE OF EFFECTIVENESS IN THE CASE OF CARGO TARIFFS. EACH CONTRACTING PARTY SHALL GIVE SYMPATHETIC CONSIDERATION TO TARIFF FILINGS ON SHORTER NOTICE WHEN NECESSARY TO ENABLE DESIGNATED AIRLINES TO RESPOND TO COMPETITIVE OFFERINGS. IF EITHER CONTRACTING PARTY CHOOSES TO REQUIRE THE FILING OF SUCH TARIFFS, FILING REQUIREMENTS SHALL NOT DISCRIMINATE AMONG THE DESIGNATED AIRLINES OF EITHER CONTRACTING PARTY AND AIRLINES OF THIRD COUNTRIES.

-- "NEITHER CONTRACTING PARTY SHALL REQUIRE THE FILING BY A UNCLASSIFIED

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DESIGNATED AIRLINE OF OTHER CONTRACTING PARTY OR BY AIRLINES OF THIRD COUNTRIES OF PRICES OR RATES CHARGED BY CHARTERERS TO THE PUBLIC FOR CHARTER TRAFFIC ORIGINATING IN THE TERRITORY OF THAT OTHER CONTRACTING PARTY.

-- "(C) IF EITHER CONTRACTING PARTY IS DISSATISFIED WITH A FARE, RATE OR PRICE, OR THE RULES GOVERNING ITS AVAILABILITY THAT IS FILED, PROPOSED, OR CONTINUED IN EFFECT FOR THE CARRIAGE OF SCHEDULED OR CHARTER TRAFFIC BETWEEN THE UNITED STATES AND GERMANY, IT SHALL NOTIFY THE OTHER CONTRACTING PARTY AS SOON AS POSSIBLE, AND IN ANY EVENT WITHIN 30 DAYS OF RECEIVING NOTIFICATION OF THE FARE, RATE, OR PRICE. EITHER CONTRACTING PARTY MAY THEN REQUEST CONSULTATIONS WHICH SHALL BE HELD AS SOON AS POSSIBLE, AND IN NO EVENT LATER THAN 30 DAYS OF THE RECEIPT OF THE REQUEST. THE CONTRACTING PARTIES AGREE TO COOPERATE ON A CONTINUING BASIS IN SECURING THE AIRLINE ACCOUNTING INFORMATION NECESSARY FOR REASONED RESOLUTION OF PRICING CONSULTATIONS.

-- "(D) NEITHER CONTRACTING PARTY SHALL TAKE UNILATERAL ACTION TO PREVENT THE INAUGURATION OR CONTINUATION OF FARES, RATES OR PRICES OR THE RULES GOVERNING THEIR

AVAILABILITY FILED, PROPOSED, OR CONTINUED IN EFFECT FOR
TRAFFIC BETWEEN THE UNITED STATES AND GERMANY.

-- "THE CONTRACTING PARTIES AGREE THAT ANY AIRLINE MAY
IMMEDIATELY MATCH ANY FARE, RATE, OR PRICE FILED, PRO-
POSED, CONTINUED OR OFFERED BY ANY AIRLINE FOR
SCHEDULED OR CHARTER TRAFFIC BETWEEN THE UNITED STATES
AND GERMANY. FOR THESE PURPOSES, THE TERM 'MATCH'
INCLUDES THE RIGHT TO MEET A FARE, RATE, OR PRICE, AS
WELL AS ANY TERM OR CONDITION, WITH EITHER AN IDENTICAL
OR SUBSTANTIALLY SIMILAR FARE, RATE, PRICE, TERM, OR
CONDITION.

-- "(E) PARAGRAPHS (C) AND (D) ABOVE APPLY EQUALLY TO
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FARES, RATES, OR PRICES OF THE DESIGNATED AIRLINE OF
EITHER CONTRACTING PARTY AND OF AIRLINES OF THIRD
COUNTRIES CARRYING TRAFFIC BETWEEN THE UNITED STATES AND
GERMANY. THE PHRASE 'TRAFFIC BETWEEN THE UNITED STATES
AND GERMANY' AS USED HEREIN AND IN PARAGRAPHS (C) AND (D)
INCLUDES TRAFFIC CARRIED ON AN INTRALINE OR INTERLINE
BASIS, INCLUDING SERVICE VIA THIRD COUNTRIES, FOR
SCHEDULED OR CHARTER AIR TRANSPORTATION.

-- "(F) IF A CONTRACTING PARTY HAS EXPRESSED DISSATIS-
FACTION WITH A FARE, RATE, OR PRICE AND REQUESTS CONSULTA-
TIONS IN ACCORDANCE WITH PARAGRAPH (C) OF THIS ARTICLE,
THE CONTRACTING PARTIES SHALL MEET AND ENDEAVOR TO REACH
AN AGREEMENT. PRIOR TO AND DURING SUCH CONSULTATIONS,
THE FARES, RATES, OR PRICES AT ISSUE SHALL GO INTO EFFECT
AS PROPOSED, OR CONTINUE IN EFFECT, AS THE CASE MAY BE.
AFTER CONSULTATIONS, UNLESS MUTUAL AGREEMENT IS REACHED
BETWEEN THE CONTRACTING PARTIES TO SUSPEND THE FARES,
RATES, OR PRICES IN QUESTION, THEY SHALL BE INTRODUCED OR
CONTINUE IN EFFECT AS FILED OR PROPOSED. IF THE PARTIES
AGREE TO DISAPPROVE A FARE, RATE, OR PRICE, BOTH CON-
TRACTING PARTIES SHALL USE THEIR BEST EFFORTS TO PREVENT
THE IMPLEMENTATION OR CONTINUATION OF THE FARE, RATE, OR
PRICE THAT WAS MUTUALLY DISAPPROVED.

-- "(G) THE DESIGNATED AIRLINES OF EACH CONTRACTING PARTY
SHALL, IN THEIR OPERATIONS BETWEEN THE TERRITORY OF THE
OTHER CONTRACTING PARTY AND POINTS IN THIRD COUNTRIES,
HAVE THE RIGHT TO MATCH IMMEDIATELY ANY FARE, RATE, OR

PRICE FILED, PROPOSED, CONTINUED OR OFFERED BY ANY OTHER
AIRLINE. THE TERM 'MATCH' SHALL, FOR THESE PURPOSES,
HAVE THE SAME MEANING AS STATED IN (D) ABOVE? CHRISTOPHER
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